

# Supreme Court strikes down 97th Constitutional Amendment

July 22, 2021

**In news-** Recently, the Supreme Court has struck down certain provisions of the Constitution (97th Amendment) Act, 2011.

## ***The Supreme Court's verdict-***

- The Court has **struck down parts of a Constitutional Amendment which shrank the exclusive authority of States over its co-operative societies.**
- It has **upheld a 2013 judgment of the Gujarat High Court** which struck down the provisions of the Constitution (97th Amendment) Act 2011.
- The three 3-judge bench unanimously held that the 97th Constitutional Amendment required ratification by at least one-half of the state legislatures as per Article 368(2) of the Constitution, since it dealt with an entry which was an exclusive state subject (co-operative societies).
- Since such ratification was not done in the case of the 97th Constitutional amendment, it was liable to be struck down.
- The court pointed out how **Article 243ZI** makes it clear that a State may only make law on the incorporation, regulation and winding up of a society subject to the provisions of Part IXB of the 97th Constitutional Amendment.
- The majority of the bench upheld those provisions of Part IX B which deal with multi-state co-operative societies by applying the doctrine of severability.
- It is declared that Part IXB of the Constitution is operative only insofar as it concerns multi-State cooperative societies both within the various States and in the Union Territories.

As per **Article 368(2)**, ratification of one-half of state legislatures is required for an amendment which makes changes to an entry in the state list. Since co-operative societies was a state subject as per Entry 32 in List II of the Seventh Schedule, the amendment introducing Part IX B required ratification as per Article 368(2).

### ***97th amendment & Part IXB of the constitution-***

- It was introduced into the Constitution through the 97th Amendment of 2012, dictated the terms for running co-operative societies.
- It consists of **Articles 243ZH to 243ZT**.
- It has amended **Article 19(1)(c)** to give protection to the cooperatives and inserted **Article 43 B and Part IX B**, relating to them.
- While Article 19(1)(c) guarantees freedom to form associations or unions or cooperative societies subject to certain restrictions, Article 43 B says that states shall endeavour to promote voluntary formation, autonomous functioning, democratic control and professional management of cooperative societies.
- The Part IXB of the Constitution inserted by 97th amendment deals with incorporation, terms of members of board and its office bearers and effective management of cooperative societies.